Supreme Court of the United States

OCTOBER TERM, 1977

NO. 74, ORIGINAL

STATE OF GEORGIA, *Plaintiff*,

v.

STATE OF SOUTH CAROLINA, *Defendant*.

BRIEF IN SUPPORT OF MOTION TO FILE COMPLAINT

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The State of South Carolina, appearing by its Attorney General, joins in the Motion of the State of Georgia seeking leave of the Court to file a Bill of Complaint in the original jurisdiction, and joins in the request that such leave be granted.

JURISDICTION

This Court has jurisdiction to hear and determine cases and controversies between the States under the authority conferred by Article III, Section 2 of the Constitution of the United States which provides that:

> "The Judicial power shall extend . . . to controversies between two or more States: . . ."
> The Congress of the United States has provided that:
> "The Supreme Court of the United States shall have original and exclusive jurisdiction of:
> "(1) All controversies between two or more States; . . ."
>
> 28 U.S.C. § 1251 (a) (1).

STATEMENT

The boundary between the State of South Carolina and Georgia was thought to have been determined by the

Convention of Beaufort entered into between commissions of the two states in 1787, and its terms were generally interpreted as to certain upper portions of the river by this Court in 1922 in a suit between the two states.[1] Present application of the Convention of Beaufort to the lower reaches of the river is, however, made extremely difficult because of peculiar geomorphological changes in the river over the succeeding 190 years. Changes have also occurred by man-made or artificial changes, such as dredging and spoil deposit by the Corps of Engineers. The seaward boundary in the territorial seas between the two states was not addressed by the Convention. Its loose, ambiguous language further reduces its usefulness in determining its application to specific points in the river.

Official charts and maps have been inconsistent even up to modern times. In 1971, the United States Geological Survey reissued its 7½ minute quadrangle sheets depicting Savannah and Fort Pulaski, attached as Exhibit "B" to the proposed complaint. It substantially changed the location of the boundary from that shown on its previous maps, the most recent being the 1955 quadrangle sheets, shown as Exhibit "A" to the proposed complaint. This alteration purported to place portions of South Carolina's lands, submerged lands, bottoms and territorial waters in the State of Georgia. Following protest by the State of South Carolina the United States Geological Survey has, in the draft of its most recent issue of the maps of the area, withdrawn the alterations and presently the maps show no boundary in the disputed areas.[2]

From 1971 to the present, attempts at negotiation have failed to arrive at an agreement, the State of Georgia having rejected each suggestion made by the State of South Carolina in the interest of arriving at a settlement of the dispute. Conferences between Georgia and South Carolina wildlife and

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[1] *Georgia v. South Carolina*, 257 U.S. 516 (1922).

[2] U. S. Department of Interior, U. S. Geological Survey, U. S. Department of Commerce, National Ocean Survey, Savannah, Fort Pulaski, and Savannah Beach North, 7½ Minute Quadrangle Sheet, 1975.

marine resources officials in the past two years have failed to produce agreement as to areas and responsibilities for enforcement of commercial fishing laws. Most recently, the State of Georgia by letter of its Attorney General refused to put forth any offer of negotiation short of the entire claim outlined in its proposed complaint in this case. In the view of South Carolina such claims are utterly groundless. Negotiations have now failed.

ARGUMENT

In light of the above, it is therefore necessary for this Court to assume jurisdiction to hear and determine the correct boundary between the states of South Carolina and Georgia. Great hardship on the two states and their citizens has resulted and will continue until the dispute is resolved and no resolution may reasonably be anticipated absent a ruling by this Court.

Disputes concerning the location of the boundary in and on the waters of the Savannah River, the adjacent lands, and the seaward boundary in the territorial seas have created problems regarding the enforcement of game and fish laws and other criminal laws. Both states are laying conflicting claims to land titles. Unless the dispute is speedily settled conflicts between licensing authorities in the two states, which are currently in abeyance pending this case, will certainly erupt. Further disputes concerning the location of the boundary in the river and in the territorial seas has posed and will continue to pose grave problems concerning commercial fishing, taking of shellfish and other economic activities in the area, arising from the conflicting statutory laws and regulations of the two states.

On two occasions, in June and again in July of 1977, the State of Georgia indicated its intention to send its law enforcement officers into South Carolina waters to enforce its laws. On each occasion, direct confrontation between law enforcement officers of the two states was only narrowly averted.

Further, in June of 1977, Georgia law enforcement officers attempted to arrest the captain of a South Carolina licensed commercial vessel shrimping in waters historically in the jurisdiction of South Carolina and only recently claimed by Georgia. The Governor of South Carolina refused to extradite the captain of the vessel to stand trial in Georgia on the ground that the vessel was within South Carolina waters and not in Georgia waters.

Such threats to the sovereignty of the State of South Carolina in her waters will continue unless a determination is made by this Court as to the true boundary between the two states.

Under Article III, Section 2 and 28 U.S.C. § 1251 (a) (1), this Court has exclusive jurisdiction to hear this case. No other forum is available to the states and no possibility of negotiation of settlement exists. It is therefore imperative, in the interest of both states, that this present and long-standing dispute be finally resolved to avoid further hardship to the citizens of South Carolina and Georgia. Adjudication by this Court is the only available method of arriving at such a conclusion.

CONCLUSION

By filing this brief the State of South Carolina does not admit the correctness of the factual or legal claims made in the proposed Complaint of the State of Georgia or that all grounds of controversy have been stated as may appear from the completed pleadings, should the Court assume jurisdiction. The State of South Carolina admits only such allegations of the proposed Complaint as allege that there is a real and present controversy between the two states which requires adjudication by this Court. Should this Court grant leave to the State of Georgia to file such Complaint, the State of South Carolina reserves the right to plead to the Complaint and/or interpose such motions, counterclaims and cross claims as the circumstances may justify, at such times as the Court may set.

For all of the reasons stated the State of South Carolina joins in the Motion of the State of Georgia and respectfully requests that this Court assume jurisdiction over the entire controversy between the two states, set times for the filing of responsive pleadings and prescribe for further proceedings in the action.

Respectfully submitted,

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OCTOBER, 1977

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